

**Introduced by Senators Ayala and Kopp**January 13, 1997

---

An act to add Article 2.5 (commencing with Section 29945) to Chapter 6 of Division 3 of Title 3 of, to add Article 1.5 (commencing with Section 43640) to Chapter 4 of Division 4 of Title 4 of, and to add Article 14 (commencing with Section 53597) to Chapter 3 of Division 2 of Title 5 of, the Government Code, relating to local agency borrowing.

## LEGISLATIVE COUNSEL'S DIGEST

SB 147, as introduced, Ayala. Local agency borrowing.

Existing law requires that in specified circumstances cities, counties, and other local agencies obtain voter approval for the imposition of general or special taxes or the issuance of bonds.

This bill would require that no city, county, or local agency may incur any indebtedness, as defined, without prior approval by a majority of the voters.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 2.5 (commencing with Section  
2 29945) is added to Chapter 6 of Division 3 of Title 3 of the  
3 Government Code, to read:  
4



## Article 2.5. County Borrowing

29945. Notwithstanding any other provision of law, no county may incur any indebtedness without prior approval by a majority of the voters of the county voting in an election on the question of incurring each specific indebtedness. If debt is to be issued pursuant to a statute which requires at least majority voter approval, the election provisions of that statute shall be followed to satisfy this requirement. If the indebtedness is to be incurred pursuant to authority which does not otherwise require electoral approval, the county shall comply with the election provisions of this article.

29945.3. (a) For purposes of this article, indebtedness means any transaction in which the county obtains money or the use or control of funds, tangible assets, or other thing or service of value, and in which the county incurs an obligation to make payments of any kind in return, if the obligation to make those payments continues beyond the fiscal year in which the obligation is first incurred. Indebtedness includes any transaction involving the issuance by the county or by any other entity on behalf of the county of any certificate of participation, share in an installment sale purchase contract, leaseback, lease sale purchase, or similar transaction.

(b) Notwithstanding subdivision (a), indebtedness does not include any contract for employee services, including any labor contract.

(c) Notwithstanding subdivision (a), indebtedness does not include any lease of any tangible property, including any building, in which the county's payments are made to a single entity which owns the tangible property, and in which interest in the lease payment stream is not resold, divided, or securitized in any manner.

(d) For purposes of this article, a county shall be deemed to incur indebtedness if the county enters into a transaction with a joint powers authority, including a Marks-Roos Authority, as defined in Section 6585, in

1 which the county incurs an obligation to make payments  
2 as described in subdivision (a).

3 (e) The provisions of this article apply to any  
4 redevelopment agency with a project area within the  
5 boundaries of the county.

6 (f) Notwithstanding subdivision (a), indebtedness  
7 does not include any debt secured exclusively by any  
8 special assessment as defined in Article XIII D of the  
9 California Constitution.

10 29945.8. (a) Any indebtedness subject to this article  
11 shall be proposed by an ordinance or resolution of the  
12 legislative body of the county. The ordinance or  
13 resolution proposing the indebtedness shall include the  
14 amount and purpose of the proposed indebtedness and  
15 the date upon which an election shall be held upon the  
16 issue.

17 (b) Except as provided in subdivision (c), the election  
18 on any indebtedness subject to this article shall be  
19 consolidated with a statewide primary election, a  
20 statewide general election, or a regularly scheduled local  
21 election at which all of the electors of the county are  
22 entitled to vote.

23 (c) Notwithstanding subdivision (b), the legislative  
24 body of the county may provide that the election on any  
25 indebtedness proposed shall be held at any date  
26 otherwise permitted by law. The county shall bear the  
27 cost of any election held pursuant to this subdivision. An  
28 election held pursuant to this subdivision shall be deemed  
29 at the request of the county calling the election and shall  
30 not be deemed a state mandate.

31 (d) Except as otherwise provided in this article, the  
32 provisions of law regulating elections of the county that  
33 calls an election pursuant to this article, insofar as they  
34 may be applicable, shall govern all elections conducted  
35 pursuant to this article. There shall be prepared and  
36 included in the ballot material provided to each voter, an  
37 impartial analysis pursuant to Section 9160 or 9280 of the  
38 Elections Code, and arguments and rebuttals, if any,  
39 pursuant to Sections 9162 to 9167, inclusive, and Section

1 9190 of the Elections Code or pursuant to Sections 9281 to  
2 9287, inclusive, and Section 9295 of the Elections Code.

3 SEC. 2. Article 1.5 (commencing with Section 43640)  
4 is added to Chapter 4 of Division 4 of Title 4 of the  
5 Government Code, to read:

6

7

Article 1.5. City Borrowing

8

9 43640. Notwithstanding any other provision of law, no  
10 city may incur any indebtedness without prior approval  
11 by a majority of the voters of the city voting in an election  
12 on the question of incurring each specific indebtedness.  
13 If debt is to be issued pursuant to a statute which requires  
14 at least majority voter approval, the election provisions of  
15 that statute shall be followed to satisfy this requirement.  
16 If the indebtedness is to be incurred pursuant to authority  
17 which does not otherwise require electoral approval, the  
18 city shall comply with the election provisions of this  
19 article.

20 43640.3. (a) For purposes of this article, indebtedness  
21 means any transaction in which the city obtains money or  
22 the use or control of funds, tangible assets, or other thing  
23 or service of value, and in which the city incurs an  
24 obligation to make payments of any kind in return, if the  
25 obligation to make those payments continues beyond the  
26 fiscal year in which the obligation is first incurred.  
27 Indebtedness includes any transaction involving the  
28 issuance by the city or by any other entity on behalf of the  
29 city of any certificate of participation, share in an  
30 installment sale purchase contract, leaseback, lease sale  
31 purchase, or similar transaction.

32 (b) Notwithstanding subdivision (a), indebtedness  
33 does not include any contract for employee services,  
34 including any labor contract.

35 (c) Notwithstanding subdivision (a), indebtedness  
36 does not include any lease of any tangible property,  
37 including any building, in which the city's payments are  
38 made to a single entity which owns the tangible property,  
39 and in which interest in the lease payment stream is not  
40 resold, divided, or securitized in any manner.



(d) For purposes of this article, a city shall be deemed to incur indebtedness if the city enters into a transaction with a joint powers authority, including a Marks-Roos Authority, as defined in Section 6585, in which the city incurs an obligation to make payments as described in subdivision (a).

(e) The provisions of this article apply to any redevelopment agency with a project area within the boundaries of the city.

(f) Notwithstanding subdivision (a), indebtedness does not include any debt secured exclusively by any special assessment as defined in Article XIII D of the California Constitution.

43640.8. (a) Any indebtedness subject to this article shall be proposed by an ordinance or resolution of the legislative body of the city. The ordinance or resolution proposing the indebtedness shall include the amount and purpose of the proposed indebtedness and the date upon which an election shall be held upon the issue.

(b) Except as provided in subdivision (c), the election on any indebtedness subject to this article shall be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the city are entitled to vote.

(c) Notwithstanding subdivision (b), the legislative body of the city may provide that the election on any indebtedness proposed shall be held at any date otherwise permitted by law. The city shall bear the cost of any election held pursuant to this subdivision. An election held pursuant to this subdivision shall be deemed at the request of the city calling the election and shall not be deemed a state mandate.

(d) Except as otherwise provided in this article, the provisions of law regulating elections of the city that call an election pursuant to this article, insofar as they may be applicable, shall govern all elections conducted pursuant to this article. There shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 9160 or 9280 of the Elections

1 Code, and arguments and rebuttals, if any, pursuant to  
2 Sections 9162 to 9167, inclusive, and Section 9190 of the  
3 Elections Code or pursuant to Sections 9281 to 9287,  
4 inclusive, and Section 9295 of the Elections Code.

5 SEC. 3. Article 14 (commencing with Section 53597)  
6 is added to Chapter 3 of Division 2 of Title 5 of the  
7 Government Code, to read:

8

9

Article 14. Local Agency Borrowing

10

11 53597. Notwithstanding any other provision of law, no  
12 local agency may incur any indebtedness without prior  
13 approval by a majority of the voters of the local agency  
14 voting in an election on the question of incurring each  
15 specific indebtedness. If debt is to be issued pursuant to  
16 a statute which requires at least majority voter approval,  
17 the election provisions of that statute shall be followed to  
18 satisfy this requirement. If the indebtedness is to be  
19 incurred pursuant to authority which does not otherwise  
20 require electoral approval, the local agency shall comply  
21 with the election provisions of this article.

22 53597.3. (a) For purposes of this article, indebtedness  
23 means any transaction in which the local agency obtains  
24 money or the use or control of funds, tangible assets, or  
25 other thing or service of value, and in which the local  
26 agency incurs an obligation to make payments of any kind  
27 in return, if the obligation to make those payments  
28 continues beyond the fiscal year in which the obligation  
29 is first incurred. Indebtedness includes any transaction  
30 involving the issuance by the local agency or by any other  
31 entity on behalf of the local agency of any certificate of  
32 participation, share in an installment sale purchase  
33 contract, leaseback, lease sale purchase, or similar  
34 transaction.

35 (b) Notwithstanding subdivision (a), indebtedness  
36 does not include any contract for employee services,  
37 including any labor contract.

38 (c) Notwithstanding subdivision (a), indebtedness  
39 does not include any lease of any tangible property,  
40 including any building, in which the local agency's



1 payments are made to a single entity which owns the  
2 tangible property, and in which interest in the lease  
3 payment stream is not resold, divided, or securitized in  
4 any manner.

5 (d) For purposes of this article, a local agency shall be  
6 deemed to incur indebtedness if the local agency enters  
7 into a transaction with a joint powers authority, including  
8 a Marks-Roos Authority, as defined in Section 6585, in  
9 which the local agency incurs an obligation to make  
10 payments as described in subdivision (a).

11 (e) The provisions of this article apply to any  
12 redevelopment agency with a project area within the  
13 boundaries of the local agency.

14 (f) Notwithstanding subdivision (a), indebtedness  
15 does not include any debt secured exclusively by any  
16 special assessment as defined in Article XIII D of the  
17 California Constitution.

18 53597.8. (a) Any indebtedness subject to this article  
19 shall be proposed by an ordinance or resolution of the  
20 legislative body of the local agency. The ordinance or  
21 resolution proposing the indebtedness shall include the  
22 amount and purpose of the proposed indebtedness and  
23 the date upon which an election shall be held upon the  
24 issue.

25 (b) Except as provided in subdivision (c), the election  
26 on any indebtedness subject to this article shall be  
27 consolidated with a statewide primary election, a  
28 statewide general election, or a regularly scheduled local  
29 election at which all of the electors of the local agency are  
30 entitled to vote.

31 (c) Notwithstanding subdivision (b), the legislative  
32 body of the local agency may provide that the election on  
33 any indebtedness proposed shall be held at any date  
34 otherwise permitted by law. The local agency shall bear  
35 the cost of any election held pursuant to this subdivision.  
36 An election held pursuant to this subdivision shall be  
37 deemed at the request of the local agency calling the  
38 election and shall not be deemed a state mandate.

39 (d) Except as otherwise provided in this article, the  
40 provisions of law regulating elections of the local agency

1 that calls an election pursuant to this article, insofar as  
2 they may be applicable, shall govern all elections  
3 conducted pursuant to this article. There shall be  
4 prepared and included in the ballot material provided to  
5 each voter, an impartial analysis pursuant to Section 9160  
6 or 9280 of the Elections Code, and arguments and  
7 rebuttals, if any, pursuant to Sections 9162 to 9167,  
8 inclusive, and Section 9190 of the Elections Code or  
9 pursuant to Sections 9281 to 9287, inclusive, and Section  
10 9295 of the Elections Code.

O

